

THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NORTH CAROLINA

FILED

OCT 09 2012

JULIE A. RICHARDS, CLERK
US DISTRICT COURT, EDNC
BY JS DEP CLK

Eddie Ray: Kahn,
Petitioner

Criminal Case No. 1:08-cr-271

v.

Case No. 5:12-HC-2149FL

Jonathan C. Miner, Warden,
Respondent

JUDICIAL NOTICE OF VIOLATION OF
LAW AND JUDICIAL MISCONDUCT

This is a supplement in Judicial Notice form to the MOTION FOR RECONSIDERATION that I filed with this Court on September 6, 2012 that has not been responded to as of this date.

Federal courts are required to comply with the laws of the state in which the courts are located. In reviewing the Habeas Corpus laws of North Carolina, specifically Section 17-9, it states:

"Writ granted without delay

Any court or judge empowered to grant the writ, to whom such application may be presented, shall grant the writ without delay, unless it appear from the application itself or from the documents annexed that the person applying for whose benefit it is intended is, by this Chapter, prohibited from prosecuting the writ.

Additionally, Section 17-10 states:

Penalty for refusal to grant

If any judge authorized by this Chapter to grant writs of habeas corpus refuses to grant such writ when legally applied for, every such judge shall forfeit to the party aggrieved two thousand five hundred dollars (\$2,500)."

Unless Judge Flanagan can produce evidence that proves I did not legally apply for the Writ of Habeas Corpus Ad Subjiciendum that was filed in this Court on June 22, 2012, she is in violation of North Carolina law. Absent such evidence, I demand that she forfeit the sum of \$2,500.00 to me without further delay.

Furthermore, the U.S. Supreme Court has had very stern words for federal judges that shirk their duty to give redress to men and women that come before them. In cases where that has been an issue, the Court stated:

"We have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. One or the other would be treason to the Constitution". Cohen v. Virginia, 6 Wheat 264, 404, 5 L Ed. 257 (1821)

" The Courts of the United States are bound to proceed to judgement and to afford redress to suitors before them in every case to which their jurisdiction extends. They cannot abdicate their authority or duty in any case in favor of any other jurisdiction". Chicot v. Sherwood, 148 US 529, 534 (1893)

Bottom Line: If Judge Flanagan's office was created by Section 8 of the Judiciary Act of 1789, she has been granted the authority by Section 14 of that Act to issue the Writ I have put before her. Therefore, because she is refusing to issue the writ, according to the U.S. Supreme Court, she is currently committing "treason to the Constitution".

However, if her office was not created by Section 8 of the Judiciary Act of 1789, she would not have jurisdiction to issue a common law Writ.

To clear up this confusion so that I can get the relief I am requesting, I am demanding that Chief Judge Dever confirm that Judge Flanagan's office was created pursuant to Section 8 of the Judiciary Act of 1789.

If Judge Flanagan's office was created by Section 8, I also demand that she either recuse herself from this case or promptly issue the Writ, as I am illegally incarcerated and am being grievously harmed daily by her refusal to force the Respondent to prove that I am legally incarcerated, as I have made a prima facie case, via affidavits and evidence, that I am, indeed, illegally incarcerated.

Date: October 3, 2012



Eddie Ray: Kahn
18325-008
P.O. Box 630
Winton, North Carolina 27986

PROOF OF SERVICE

I hereby certify that I have placed a copy of the JUDICIAL NOTICE OF VIOLATION OF LAW AND JUDICIAL MISCONDUCT in the Inmate Mail Box in Rivers Correctional Institution on October 5, 2012. It was addressed to the current Warden, Brick Tripp.



Eddie Ray: Kahn

18325-008

P.O. Box 630

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